

REMARKS

This amendment is being filed in response to the Final Office Action dated August 14, 2007. By this Response, claims 3 and 4 are amended for correct formality errors. The amendments are made to address minor formality raised by the Office Action and do not introduce new issues. It is submitted that the amendments either place the claims in condition for allowance or at least reduce issues for appeal. Entry of the amendments are respectfully requested. Claims 10-24 were withdrawn previously. Claims 1-9 are now active for examination.

The Office Action

The Office Action rejects claims 3 and 4 under 35 U.S.C. §112, second paragraph for lack of proper antecedent basis. Claims 1-3 and 5 are rejected under 35 U.S.C. §102(e) as being anticipated by Banks et al. (U.S. Patent No. 6,603,494). Claims 4 and 6-8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Banks in view of Ross et al. (U.S. Patent No. 5,859,628). The Office Action rejected claim 9 under 35 U.S.C. §103(a) as being unpatentable over Banks in view of Cross. These rejections are respectfully traversed. Applicants hereby request reconsideration and allowance of the claims in view of the following arguments.

The Rejection under 35 U.S.C. § 112, second paragraph Is Overcome

Claims 3 and 4 under 35 U.S.C. §112, second paragraph for lacking appropriate antecedent basis. By this Response, claims 3 and 4 are amended to provide appropriate antecedent basis. It is submitted that the rejection under 35 U.S.C. §112, second paragraph is overcome.

The Rejection under 35 U.S.C. § 102(e) Is Overcome

Claims 1-3 and 5 are rejected under 35 U.S.C. §102(e) as being anticipated by Banks. The anticipation rejection is overcome because Banks fails to disclose every limitation of the claims.

Independent claim 1 recites that a display element has a touch sensitive active region and a graphical representation of functionality invoked by user selection of the display element. The touch sensitive active region includes more display area than the corresponding graphical representation. As illustrated and described in Fig. 4 and paragraph [0048] of the application, each active region 410A-F of the inventive user interface advantageously includes more screen area than the corresponding graphical representation 415A-F, to facilitate discrete selection of each display element, especially when the user is wearing bulky hand protection.

In contrast, Banks does not disclose that each of its display elements includes an active region and a graphical representation having an area smaller than that of the active region, as claimed. Actually, Banks is silent with respect to this feature.

In rejecting claim 1, the Examiner asserts that elements 276 and 258 in Fig. 5 to be corresponding to the claimed touch sensitive active region and the graphical representation, respectively, and that it is “clear from fig. 5” that element 276 (the alleged touch sensitive active region) is larger than element 258 (the accused graphical representation). See page 3, third paragraph of the Office Action.

However, according to Banks, while element 258 indeed represents an “acquire” icon, element 276 is **NOT** a touch sensitive active region, as required by claim 1. Rather,

it is a “**graphical representation**” displayed for indicating a user’s selection of the acquire icon 258 **subsequent** to the selection (“when acquire icon 258 is selected, processor 106 **indicates** selection of acquire icon 258 by providing a **digital tab 276** which encompasses acquire icon 258”). See col. 13, lns. 36-39 of Banks. In other words, element 276 is only a graphical tab and has **nothing** to do with a touch sensitive area. Accordingly, Banks fails to teach “a user interface for invoking a function of a diagnostic instrument, the user interface comprising: a first navigational menu including at least one display element, the at least one display element having a touch sensitive active region and a graphical representation of functionality invoked by user selection of the display element, wherein the touch sensitive active region includes more display area than the corresponding graphical representation,” as described in claim 1. Consequently, independent claim 1 is patentable, as are claims 2, 3 and 5, which depend from claim 1. Favorable reconsideration of claims 1-3 and 5 is respectfully requested.

The Rejection under 35 U.S.C. § 103(a) Are Overcome

Claims 4 and 6-9 depend from claim 1 and are rejected under 35 U.S.C. §103(a) as being unpatentable over Banks in view of Ross or Cross. The Ross and Crosss reference do not furnish the features of claim 1, from which claims 4 and 6-9 depend, missing from Banks. Therefore, any combinations of Banks with either Ross or Cross, however made, would still be missing these features, and it would not have been obvious to add these features to any contended combinations. Therefore, claims 4 and 6-9 are patentable. Favorable reconsideration of claims 4 and 6-9 is respectfully requested.

CONCLUSION

Applicants believe that this application is in condition for allowance, and request that the Examiner give the application favorable reconsideration and permit it to issue as a patent. If the Examiner believes that the application can be put in even better condition for allowance, the Examiner is invited to contact Applicants' representatives listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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